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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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FRANCISCO PEREZ-RODRIGUEZ,

Movant,

*versus*

UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO. 1:07-CV-466

**MEMORANDUM ORDER ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Francisco Perez-Rodriguez filed this motion to vacate, set aside or correct judgment pursuant to 28 U.S.C. § 2255.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The government has filed a motion asking that this motion to vacate be dismissed. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the motion to dismiss. The magistrate judge recommends the motion to dismiss be granted except with respect to the claim that movant received ineffective assistance of counsel because counsel failed to file a notice of appeal on his behalf.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. No objections were filed to the Report and Recommendation.

**ORDER**

As no objections were filed, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. The government's motion to dismiss is **DENIED** with respect to the claim that counsel failed to file a notice of appeal on movant's behalf and **GRANTED** in all other respects.

SIGNED at Beaumont, Texas, this 16th day of August, 2010.



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MARCIA A. CRONE

UNITED STATES DISTRICT JUDGE